IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	)	Chapter 11
CHESAPEAKE ENERGY CORPORATION, *et al*.,[1]	)	Case no. 20-33233 (DRJ)
Debtors.	)	(Jointly Administered)

PRELIMINARY OBJECTION AND RESERVATION OF RIGHTS BY THE OFFICIAL COMMITTEE OF ROYALTY OWNERS TO DEBTORS' EMERGENCY MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION FINANCING, (II) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL, (III) GRANTING LIENS AND PROVIDING CLAIMS WITH SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (IV) GRANTING ADEQUATE PROTECTION TO THE EXISTING SECURED PARTIES, (V) MODIFYING THE AUTOMATIC STAY, (VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF

COMES NOW the Official Committee of Royalty Owners (the "RO Committee") and files this Preliminary Objection and Reservation of Rights (the "Objection") to the relief requested by the debtors, Chesapeake Energy Corporation; Chesapeake Operating, L.L.C., f/k/a Chesapeake Operating, Inc.; Chesapeake Exploration, L.L.C. as successor by merger to Chesapeake Exploration, L.P.; and Chesapeake Energy Marketing, L.L.C., f/k/a Chesapeake Energy Marketing, Inc. (collectively "Chesapeake" or the "Debtors"), in the Debtor's Emergency Motion for Approval of Interim and Final Postpetition Financing [Docket No. 22] (the "DIP Motion").[2]

I. PROCEDURAL HISTORY

1. The Debtors initiated these bankruptcy proceedings through the filing of voluntary chapter 11 petitions on June 28, 2020 (the "Petition Date"). Attached to Chesapeake's bankruptcy petition was a schedule of its 50 largest unsecured (non-insider) claims. Notably, although Chesapeake is currently being sued by thousands of royalty owners across the country

[1] A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at https://dm.epiq11.com/chesapeake. The location of Debtor Chesapeake Energy Corporation's principal place of business and the Debtors' service address in these chapter 11 cases is 6100 North Western Avenue, Oklahoma City, Oklahoma 73118.

[2] Any capitalized terms not otherwise defined herein have the meaning ascribed to such terms in the DIP Motion.

for hundreds of millions of dollars in unpaid royalties and other relief, including release of acreage claims, *none* of Chesapeake's royalty interest owners or the various classes of royalty owners involved in pending litigation with Chesapeake were listed by the Debtors among Chesapeake's 50 largest unsecured creditors. Indeed, it does not appear that the thousands of royalty owners impacted by these bankruptcy cases have even been given notice of the DIP Motion and, perhaps, have not yet even received notice of the filing of the case.

2. For example, there currently are two multi-district litigation (MDL) cases[3] against Chesapeake pending in Texas state court in which approximately 194 royalty owners plaintiffs collectively seek damages of more than $200 million and assert claims that mineral acreage under leases affecting thousands of mineral acres (valued by Chesapeake at more than $100 million) was released. Likewise, there are approximately 760 royalty owners in Pennsylvania asserting claims in a number of actions against Chesapeake under oil and gas leases affecting over 30,000 mineral acres in the Marcellus Shale region of Pennsylvania. Further, there are certified class actions pending against the Debtors in Pennsylvania for the underpayment of tens of millions of dollars of royalty obligations involving more than 10,000 landowners and 12,000 leases. These actions and other pending cases against Chesapeake across the country, including in Texas, Oklahoma, Pennsylvania and Ohio are reflected on the attached **Exhibit A**. In addition to the royalty owners that are already parties to lawsuits with Chesapeake, there are literally thousands of other royalty owners throughout the country (collectively, the "Royalty Owners") who did not even receive notice of the DIP Motion, but whose interests will be affected by the Court's ruling on the DIP Motion.

3. On June 28, 2020, the Court entered an order jointly administering the Debtors' bankruptcy cases under Case No. 20-33233 (DRJ). [Docket No. 91].

[3] *See In re Chesapeake Eagle Ford Royalty Litigation,* Cause No. 2016C122093, pending in the 224th District Court in Bexar County, Texas (MDL No. 1); *In re Chesapeake Barnett Royalty Litigation #2,* pending in the 96th District Court in Tarrant County, Texas.

4. On June 28, 2020, the Debtors filed a number of "first day" motions. Such first day motions included the instant DIP Motion as well as an *Emergency Motion for Entry of an Order (I) Authorizing Payment of (A) Obligations Owed to Holders of Mineral and Other Interests and Non-Op Working Interests and (B) Joint Interest Billings, and (II) Granting Related Relief* (the "Royalty Payment Motion") [Docket No. 16].

5. On June 29, 2020, the Court held an interim hearing on the DIP Motion and entered its *Interim Order (I) Authorizing the Debtors to Obtain Post-Petition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Existing Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the "Interim DIP Order") [Docket No. 128].

6. On July 24, 2020, the U.S. Trustee filed a *Notice of Appointment of Committee of Royalty Owners* [Docket No. 488], which formed the official RO Committee. The first meeting of the RO Committee was held on July 25, 2020, in which the RO Committee voted to retain the undersigned firm as proposed counsel.

7. On July 27, 2020, the Official Committee of Unsecured Creditors (the "UCC") filed an objection to the DIP Motion (the "UCC Objection") [Docket No. 514].

II. JOINDER BY RO COMMITTEE IN UCC OBJECTION

8. The RO Committee hereby joins in all aspects of the UCC Objection to the DIP Motion filed by the UCC. Without waiver of the arguments raised in the UCC Objection, the RO Committee files this separate preliminary Objection and reservation of rights to address additional matters affecting Royalty Owners specifically.

9. The RO Committee vigorously joins the UCC in noting that the DIP Motion was negotiated at a time when oil prices were at historic lows. The price of oil has significantly rebounded since the lows in early and mid-May 2020. There is no valid reason why the unsecured creditors should be saddled with such a deal thirty (30) days into the case. This

locks the Debtors into a course of action dictated by the DIP Motion and irrevocably deprives the unsecured creditors of any possibility of ever exploring any alternative options which might provide a greater return.

10. As the UCC Objection notes at paragraph 3, the enterprise value of the Debtors is already subject to wide-ranging debate in the market place, and the value embedded in the RSA is a "negotiated valuation." As reflected at paragraph 14 of the Dell'Osso Declaration, based on this valuation, the RSA carves up the pie. If the DIP Motion is approved, it will result in the following:

- The Debtors' enterprise value will be determined based on a negotiated valuation, apparently negotiated when commodity process were at a historically depressed level;
- The DIP Lenders will, based on their rolled up loans, have control of the bankruptcy cases; and,
- The opportunity to explore other options for the Debtors will likely be forever lost.

All of this will occur only thirty (30) days into the case without any notice to a majority of Royalty Owners represented by the RO Committee.

III. PRELIMINARY OBJECTION

11. The DIP Motion provides:

> A significant portion of the Debtors' prepetition collateral includes oil and gas properties on which the secured parties have liens, including the oil and gas extracted by the Debtors from those properties and the proceeds generated from the sales thereof. *See* First Day Decl. ¶ 110. The Debtors' business model is predicated upon their ability to maximize the value of their oil and gas assets through extraction, bring the extracted hydrocarbons to market, and utilize the proceeds of such hydrocarbon sales to fund their business operations. *See id.* The continuation of the Debtors' operations and the preservation of their going concern value is largely dependent upon their ability to regularly convert the prepetition oil and gas collateral into cash collateral and use the cash in their operations.

See DIP Motion, ¶ 59. In other words, the Debtors most valuable assets are their oil and gas properties. Moreover, their ability to continue as a going concern depends upon their ability to continue extracting hydrocarbons, bring them to market, and use the proceeds to fund their business operations.

12. Not mentioned in the DIP Motion, however, is the fact that the Debtors' ability to utilize such oil and gas assets remains subject to the terms of oil and gas leases with thousands of Royalty Owners. In addition, some or all of such Royalty Owners may assert that they possess secured claims against Chesapeake for amounts due under their leases based on applicable state law or the terms of their respective leases. Finally, a number of Royalty Owners assert or may possess release of acreage claims pertaining to tens of thousands of mineral acres against the Debtors based on, e.g., the Debtors failure to continuously develop their oil and gas leases as required under the terms of their leases and/or applicable state law. The Court should not permit these important rights of Chesapeake's Royalty Owners to be trampled on by Chesapeake through a hasty ruling one month into the case on a DIP Motion which was not even served by Chesapeake on its Royalty Owners.

A. The DIP Motion Seeks to Prime the Royalty Owners' Secured Claims Without Providing Adequate Notice and an Opportunity to Be Heard

13. In the DIP Motion, the Debtors seek to grant the DIP Lenders "perfected, first priority priming security interests in and liens on all of the Existing Collateral." DIP Motion, p. 3. The term "Existing Collateral" is defined in the DIP Motion as ***"substantially all of the Debtors' assets and property, whether real, personal or mixed."*** DIP Motion, ¶ 23 (emphasis added). The oil and gas leases with the Royalty Owners and the proceeds therefrom are thus squarely within the definition of Existing Collateral and constitute property upon which the Debtors seek to grant the DIP Lenders perfected, first priority priming security interests and liens.

14. The Interim Order on the DIP Motion [Docket No. 128] at paragraph 11 likewise provides as follows:

> **DIP Liens**. As security for the DIP Obligations and any DIP Hedges, the DIP Agent, on behalf of and for the benefit of the DIP Secured Parties, is hereby granted . . . ***valid, enforceable, binding and fully perfected security interests in and liens upon (the "DIP Liens") all present and after-acquired property of the Debtors of any nature whatsoever*** (including without limitation "Collateral"), and all cash and cash equivalents contained in any account maintained by any of the Debtors, and, subject to entry of a Final Order, all Avoidance Actions Proceeds of the Debtors or their estates (collectively with all rents, issues, products, offspring, proceeds and profits of any or all of the foregoing, but excluding "Excluded Property" as defined in the DIP Credit Agreement, the "DIP Collateral"), subject only to the payment of the Carve Out….

See Interim DIP Order, ¶ 11 (emphasis added). Paragraph 11(c) of the Interim DIP Order further provides that, pursuant to section 364(d)(1) of the Bankruptcy Code, the DIP Liens constitute ***"valid, enforceable, binding, continuing, enforceable, fully perfected, first priority senior priming liens upon and security interests in all of the Debtors' right, title and interest in, to, and under all DIP Collateral that is subject to the Existing Liens."*** Interim DIP Order, ¶11(c) (emphasis added). Consequently, the Debtors' oil and gas assets and the proceeds therefrom, which are subject to the terms of oil and gas leases with the Royalty Owners, are among the Collateral and DIP Collateral upon which the Debtors seek to grant the DIP Lenders a first priority, senior priming lien and security interest on a final basis.

15. The priming lien sought to be granted by the Debtors to the DIP Lender is not limited to priming the Debtors' prepetition lenders. Instead, the "fully perfected, first priority senior priming liens" would prime all liens and security interests asserted by any other parties in the Debtors' property, including the liens or security interests asserted by the Royalty Owners in the proceeds of or production from their oil and gas leases under either applicable state law or the terms of their oil and gas leases. Specifically, different states have passed laws granting Royalty Owners a security interest in or lien on any oil and gas production and the proceeds of that production to secure the payment of royalties under an oil and gas lease. For example, Tex. Bus. & Com. Code § 9.343 grants Texas Royalty Owners an automatically perfected

statutory lien in oil and gas production without the filing of a financing statement to secure the obligations due under an oil and gas lease. Likewise, Okla. Stat. Ann. Title 52 §§ 549.3 and 549.4 grant Oklahoma Royalty Owners an oil and gas lien to secure the obligations due under an oil and gas lease, which liens are also perfected automatically "without the need to file a financing statement or any other type of documentation." Other states in which Chesapeake holds interests in oil and gas leases may also provide similar protection to Royalty Owners. In addition, a number of the Debtors' oil and gas leases are believed to be non-standard and may include lease terms granting the Royalty Owners security interests in or liens on the production and proceeds of the mineral acreage subject to the lease to secure payment to the Royalty Owners under the leases.

16. Here, it is completely inappropriate for the Debtors to attempt to prime the secured prepetition and post-petition claims of the Royalty Owners one (1) month into the case based on a DIP Motion that was never even served on the Royalty Owners. Indeed, the "Notice" provision at paragraph 110 of the DIP Motion makes it clear that the DIP Motion was never served on any Royalty Owners in this case. Further, although the Debtors have filed and updated their Master Service List [Docket Nos. 164 and 286], the Master Service List likewise contains only a small number of entities and does not appear to include any of the Royalty Owners. Consequently, it is unclear whether the Royalty Owners have even been given notice of the commencement of these bankruptcy cases.

17. Because the DIP Motion plainly seeks to prime any prepetition or post-petition secured claims asserted by Royalty Owners, the Debtors' failure to give Royalty Owners adequate notice of the DIP Motion is inexcusable. This is particularly true given the Debtors' knowledge that Royalty Owners may possess secured claims based on the nonpayment of royalties under their oil and gas leases. Indeed, the existence of secured claims in favor of Royalty Owners was acknowledged by the Debtors in the Royalty Payment Motion, which provided that the nonpayment of royalties and other working interests under their leases "could

result in the assertion of significant secured or unsecured claims against property of the estate." See Royalty Payment Motion, ¶ 7. Here, hundreds of Royalty Owners have already instituted enforcement actions against Chesapeake seeking hundreds of millions of dollars in unpaid royalties and other amounts due under their leases, some or all of which may give rise to secured claims against property of the estate. In addition, although not parties to existing actions, other Royalty Owners may also possess secured claims against Chesapeake for unpaid amounts under their respective leases.

18. Moreover, even if the Debtors were to challenge the Royalty Owners' secured claims, they likewise cannot adjudicate the validity, priority or extent of the Royalty Owners' secured claims through a contested matter on the DIP Motion. Instead, any challenge to the validity, priority or extent of the Royalty Owners' secured claims requires an adversary proceeding under Fed. R. Bankr. P. 7001(2). The validity of the Royalty Owners' secured claims cannot be determined in a DIP Motion which is not even served on the Royalty Owners.

19. Moreover, a number of courts have found that proceeds of oil and gas production that the debtor holds for the benefit of a third party are not property of the debtor's bankruptcy estate. *See, e.g., Dahlberg v. ConocoPhillips Co. (In re Reichmann Petroleum Corp.),* 434 B.R. 790, 797 (Bankr. S.D. Tex. 2010) (revenue earned by working interests was property of the working interest owners and not property of the estate); *Vess Oil Corp. v. SemCrude, L.P. (In re SemCrude, L.P.),* 418 B.R. 98, 106 (Bankr. D. Del. 2009) (production proceeds held in trust by the debtor for the benefit of third parties were not property of the debtor's estate). "Where [a] Debtor merely holds bare legal title to property as agent or bailee for another, Debtor's bare legal title is of no value to the estate, and Debtor should convey the property to its rightful owner." *MCZ, Inc. v. Andrus Res., Inc. (In re MCZ, Inc.)*, 82 B.R. 40, 42 (Bankr. S.D. Tex. 1987). Bankruptcy Code section 541(d) expressly provides that if a debtor holds only legal, but not an equitable, interest in the property as of the petition date, such property is not property of the estate. *See, e.g., In re Lenox Healthcare, Inc.*, 343 B.R. 96, 100 (Bankr. D. Del. 2006).

Consequently, the RO Committee further objects to the DIP Motion to the extent it seeks to grant priming liens in any prepetition or post-petition property held by the Debtors for the benefit of the Royalty Owners.

20. Finally, the RO Committee objects to the DIP Motion to the extent it requests approval of superpriority administrative expense claim status for the DIP Lenders (the "Superpriority Claims"). See DIP Motion, p. 3. Post-petition amounts owed to the Royalty Owners under their oil and gas leases may be entitled to priority of payment as an administrative expense under section 503(b)(1)(A) of the Bankruptcy Code. Moreover, although the Debtors have been authorized to continue making royalty payments in the ordinary course on a post-petition basis [see Docket No. 141], based on Chesapeake's widespread and historical underpayment of royalties, disputes may arise regarding whether the post-petition payments to Royalty Owners were correctly calculated. Consequently, the RO Committee objects to the DIP Motion to the extent it seeks to grant Superpriority Claims to the DIP Lenders that would be paid ahead of any administrative expense claims granted in favor of the Royalty Owners.

21. Because the RO Committee was only recently appointed on July 24, 2020, i.e., one week before the final hearing on the DIP Motion, counsel for the RO Committee has not yet been able to ascertain (i) whether or what extent the Royalty Owners assert or may possess secured prepetition and/or post-petition secured claims against Chesapeake under applicable state law or the terms of their respective leases, (ii) whether Chesapeake is in possession of prepetition or post-petition property that belongs to the Royalty Owners, or (iii) whether or to what extent Royalty Owners may be entitled to administrative expense claims for post-petition royalties. The RO Committee therefore objects to the DIP Motion to the extent it seeks to prime any prepetition or post-petition secured claims asserted by the Royalty Owners, grant liens in property held by the Debtors for the benefit of Royalty Owners, or grant Superpriority Claims to

the DIP Lenders with priority of payment ahead of administrative claims granted to the Royalty Owners, without adequate notice and an opportunity to be heard.

B. Any Priming Liens or Security Interests Granted to the DIP Lenders Cannot Exceed the Debtors' Valid Interest in Such Property or Be Deemed an Adjudication of Chesapeake's Rights to Disputed Mineral Acreage

22. The Interim DIP Order specifically limits the DIP Liens to "all of the Debtors' right, title and interest in, to, and under all DIP Collateral…." See Interim DIP Order, ¶11(c). Stated differently, the DIP Liens purport to extend solely to property in which the Debtors have an interest (and not to property in which the Debtors no longer have an interest). This distinction is important because a number of Royalty Owners assert or may possess claims that Chesapeake's right to develop the mineral acreage subject to their oil and gas leases was released (in whole or in part) under either the terms of their respective leases or applicable state law. As a result, although the RO Committee does not believe that the Interim DIP Order should be construed as granting the DIP Lenders security interests in and liens on anything other than property in which the Debtors have a valid interest, it objects so as to ensure that any final order on the DIP Motion likewise clarifies that the DIP Liens are only coextensive with the "Debtors' right, title and interest in, to and under all DIP Collateral" and *does not* extend to any property in which the Debtors no longer have a valid interest, including mineral acreage that was released or may be released under the terms of the particular lease or applicable state law.

23. Moreover, to the extent the Debtors may claim an interest in any disputed mineral acreage, the Debtors' grant of blanket priming liens and security interests to the DIP Lenders cannot be construed as an adjudication of the Debtors' rights to such disputed mineral acreage. In other words, the fact that the Debtors may claim a right to certain mineral acreage, and may purport to grant the DIP Lenders perfected liens and security interest in such mineral acreage, is not dispositive of the Debtors' legal rights to such acreage, especially where the Debtors' rights under the leases have been or may be disputed by the Royalty Owners. Instead, where the Debtors' rights in such mineral acreage has been released or will be

released under the terms of a lease such that the Debtors have or will have no rights to such acreage, then the Debtors cannot alter or revive those rights by granting a perfected lien in such mineral acreage through their DIP Motion. The RO Committee does not believe that the Debtors are attempting to grant security interests and liens to the DIP Lenders in any property in which the Debtor does not or may no longer have an interest. Nevertheless, the RO Committee objects to the DIP Motion to make it clear that (i) the liens and security interests granted by the Debtors to the DIP Lender can only extend to property to the extent the Debtors continue to have a valid legal interest in such property, and (ii) the granting of such liens and security interests is not an adjudication of the Debtors' rights in any disputed mineral acreage.

C. Objection to Investigative and Challenge Provisions

24. Paragraph 19 of the Interim DIP Order (the "Investigative Provision") limits the rights of the Unsecured Creditors Committee ("UCC") and other parties in interest to investigate the Existing RBL Liens and Obligations, the Existing FLLO Liens and Obligations, and the Existing Second Liens and Obligations to sixty (60) days from the appointment of the UCC for the UCC and seventy-five (75) days from the entry of the Interim DIP Order for other parties in interest. See Interim DIP Order, ¶ 19. Moreover, if a challenge is not initiated during this time period, then the Debtors, their estates, the UCC, and all other parties in interest are forever barred from challenging these transactions, and the liens and security interest of the Existing RBL Secured Parties, Existing FLLO Secured Parties, and Existing Second Lien Secured Parties "shall be deemed to constitute valid, binding, enforceable and perfected liens and security interests no subject to avoidance or disallowance pursuant to the Bankruptcy Code or applicable non-bankruptcy law." See id.

25. The RO Committee objects to the foregoing Investigative Provision for two reasons. First, taken in context, the Investigative Provision appears to pertain solely to the rights of parties to challenge the obligations to and liens and security interests asserted by the Existing RBL Secured Parties, Existing FLLO Secured Parties, and Existing Second Lien

Secured Parties either under the terms of their loan documents and/or as preferences or fraudulent transfers under the Bankruptcy Code or applicable state law. This provision does not appear to require any existing Royalty Owners to challenge the validity of any liens or security interests previously granted by the Debtors to the Existing RBL Secured Parties, Existing FLLO Secured Parties, and Existing Second Lien Secured Parties in any specific mineral acreage subject to the terms of their respective leases. However, to the extent the Investigative Provision could be construed as requiring Royalty Owners to assert that blanket liens and security interests previously granted by the Debtors to such secured parties improperly include their specific mineral acreage and then object on the basis that such mineral acreage was released under their mineral leases or applicable law, the RO Committee objects. The extent and validity of Chesapeake's interest in mineral acreage subject to the terms of various mineral leases throughout the country cannot be adjudicated through a ruling on the DIP Motion, particularly where the extent of Chesapeake's rights to certain mineral acreage has already been challenged by a number of Royalty Owners in pending state court litigation.

26. The RO Committee likewise objects to the challenge period within the Investigative Provision on the grounds that the RO Committee was just recently formed on July 24, 2020 and has not yet had an opportunity to review the various and complicated transactions between the Debtors and the Existing RBL Secured Parties, Existing FLLO Secured Parties, and Existing Second Lien Secured Parties. The existing Investigative Provision in the Interim DIP Order, if applied to the RO Committee, would not give the RO Committee adequate time to investigate the transactions and make an informed decision regarding whether to challenge them or to joint in any challenge by the UCC. The RO Committee needs an adequate time to investigate and understand the dealings between the Debtor and the Existing RBL Secured Parties, Existing FLLO Secured Parties, and Existing Second Lien Secured Parties. Consequently, the RO Committee requests that challenge period in the Investigative Provision, as applied to the RO Committee, should be extended from seventy-five (75) days from the entry

of the Interim DIP Order to one hundred eighty (180) days from July 24, 2020, the date the RO Committee was appointed and retained counsel.

D. The Carve Out Is Unreasonable and Should Be Delinked from Any Event of Default under the DIP Credit Agreement

27. Finally, the DIP Motion describes the "Carve Out" for professional fees as including "allowed professional fees of the Debtors pursuant to section 1103 of the Bankruptcy Code." See DIP Motion, p. 14. Paragraph 18 of the Interim DIP Order, however, defines the Carve Out to include "to the extent allowed at any time … all unpaid fees and expenses (the "Allowed Professional Fees") incurred by persons or firms retained by the Debtors … and the Committee (defined below) pursuant to section 328 or 1103 of the Bankruptcy Code…." Paragraph 19 of the Interim DIP Order defines the "Committee" as the "official committee of creditors holding unsecured claims appointed in these Chapter 11 cases, if any, pursuant to section 1102 of the Bankruptcy Code."

28. At the time the DIP Motion was filed and the Interim DIP Order was entered, the RO Committee had not yet been appointed. However, because the definition of Committee in the Interim DIP Order is limited to approved fees incurred by professionals of the Debtor and the UCC, it would not appear to include approved professional fees incurred by the RO Committee. The RO Committee thus objects to the entry of any Final Order on the DIP Motion that does not include any approved professional fees incurred by the RO Committee's professionals.

29. Moreover, the RO Committee echoes the concerns raised by the UCC about the Debtors' attempt to thwart any investigation into the Debtors' conduct by controlling the amount of fees available to pay non-Debtor professionals. The RO Committee agrees that professional fees paid by the Debtors should be excluded from budget testing and delinked from any potential events of default under the DIP Credit Agreement. Alternatively, if included in the budget, they must be increased to reflect the reality of the amount of work that will need to be performed by the UCC and RO Committee in these cases.

30. The RO Committee was appointed by the U.S. Trustee to represent a large but distinct group of creditors in this case. Further, although the RO Committee will avoid duplicating any investigation being performed by the UCC, there are matters peculiar to Royalty Owners that need to be investigated by the RO Committee including, e.g., the amount of Chesapeake's total mineral acreage, the total amount of Royalty Owners' claims, the amount of any potentially released mineral acreage, issues pertaining to the perfection and priority of the Royalty Owners' security interests, and other matters that affect the Royalty Owners specifically. The RO Committee therefore requests that any final order on the DIP Motion include a reasonable Carveout to cover professional fees incurred by the RO Committee during the challenge period for investigation costs.

IV. RESERVATION OF RIGHTS

31. The RO Committee was just recently appointed in this case and has not yet had an adequate opportunity to review and evaluate all aspects of the DIP Motion and the various transactions described therein. For example, the UCC only recently deposed a corporate representative of the Debtors pursuant to Fed. R. Civ. P. 30(b)(6) regarding the DIP Motion on July 28, 2020. The RO Committee therefore reserves the right to raise any additional objections to the DIP Motion or any proposed final order on the DIP Motion either before or at the final hearing on the DIP Motion.

Dated: July 28, 2020.

Respectfully submitted,

/s/ J. Robert Forshey

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served electronically on all parties that are registered to receive electronic notices through this Court's CM/ECF noticing system in the above cases (listed below) on July 28, 2020.

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EXHIBIT A

[Chesapeake Pending Litigation Cases]

Exhibit A

Known Chesapeake Lawsuits

Court	Case Number	Case Title	Status/Type of case	Number of Plaintiffs	Acreage/Amounts Involved
Tarrant County District Court	048-000000-15 096-000003-15	IN RE: CHESAPEAKE BARNETT ROYALTY LITIGATION #2	Barnett Shale Royalty case.	24	Multiple leases
Bexar County District Court	2016ci22093	In Re: Chesapeake Eagle Ford Royalty Litigation	Eagle Ford Shale Royalty case.	170	Multiple leases
Bexar County District Court	2020CI07957	Petty Business Enterprises, L.P. et al. v. Chesapeake Exploration, LLC et al.	Eagle Ford Shale Royalty case	30	Multiple leases
Middle District of Pennsylvania	3:2015cv00340	A & B Campbell Family et al v. Chesakpeake Energy Corporation et al	Royalty case. Case is stayed pending issues to be addressed by the Pennsylvania Supreme Court.	87	Multiple leases
Ohio Northern District Court	4:2013cv00391	Ritteger et al v. Chesapeake Exploration et al	This case was remanded back to state court		
Ohio Northern District Court 6th USCOA	5:2017cv01695 0:2020cv03043	Bounty Minerals, LLC v. Chesapeake Exploration, L.L.C. et al	This is royalty suit in which Ds MSJ was granted which resulted in the case being appealed.	1	Multiple leases
Ohio Northern District Court 6th USCOA	4:15cv02449	Zehentbauer Family Land LP et. al. v. Chesapeake Exploration, L.L.C. et.al.	This is royalty suit in which Ds MSJ was granted which resulted in the case being appealed.	1	Multiple leases
Ohio Northern District Court 6th USCOA	4:2015cv02591 0:2019cv03942	Henceroth et al v Chesapeake Exploration, LLC	USCOA-6th Circuit - on appeal from Northern District of Ohio at Youngstown. This is a royalty suit.	2	No information on the lease or acreage involved
Bexar County District Court	CJ-2018-26	CTF LTD et al v. Chesapeake Exploration LLC et al	Breach of ALOV lease form for wells in Ohio. Action was remanded from W.D. Oklahoma to state court for failure to establish federal subject matter jurisdiction.	8	Multiple leases
Wyoming District Court	1:2020cv00029	Wellstar Corporation et al v. Chesapeake Operating LLC, Chesapeake Exploration LLC, and CNOOC Energy USA LLC	Complaint filed - Breach of Contract, Violation of WY Royalty Payment Act, Conversion, Declaratory Relief	2	Multiple leases
Middle District of Pennsylvania	4:16cv01343	Patricia L. Abrams, et al., v. Chesapeake Energy Corp., et al.	Royalty case. Case is stayed pending issues to be addressed by the Pennsylvania Supreme Court.	352	Multiple leases
Middle District of Pennsylvania	4:16cv01345	Paul H. Arnold, et al., v. Chesapeake Energy Corp., et al.	Royalty case. Case is stayed pending issues to be addressed by the Pennsylvania Supreme Court.	213	Multiple leases
Middle District of Pennsylvania	4:16cv01346	Robert C. Abrams, Jr., et al., v. Chesapeake Energy Corp., et al.	Royalty case. Case is stayed pending issues to be addressed by the Pennsylvania Supreme Court.	76	Multiple leases

Exhibit A

Known Chesapeake Lawsuits

Middle District of Pennsylvania	4:16cv01347	Kylie E. Ahern, et al., v. Chesapeake Energy Corp., et al.	Royalty case. Case is stayed pending issues to be addressed by the Pennsylvania Supreme Court.	32	Multiple leases
Middle District of Pennsylvania	3:16cv00456	Timothy Tyler, et al., v. Chesapeake Energy Corp., et al.	Royalty case. Case is stayed pending issues to be addressed by the Pennsylvania Supreme Court.	6	Multiple leases
Middle District of Pennsylvania	3:13cv02289	Demchak Partners Limited Partnership, v. Chesapeake Energy Corp., et al.	Royalty case. Case is stayed pending issues to be addressed by the Pennsylvania Supreme Court.	Class	Multiple leases
Western District of Oklahoma	5:18-cv-00565	Dennis R Taylor, et al., v. Chesapeake Energy Corp., et al.	Jury Trial set for 1/12/2021.	5	Multiple leases
Western District of Oklahoma	5:16-cv-00776	CEOG, LLC, et al. v. Chesapeake Operating, LLC, et al.	Order Granting Class Action Settlement filed May 26, 2020.	Class	Multiple leases
Middle District of Pennsylvania	3:14-cv-00591	James L. Brown, v. Chesapeake Energy Corp., et al.	Royalty case with settlement stayed pending AG's action.	Class	Multiple leases
Middle District of Pennsylvania	3:14-cv-01197	Suessenbach v. Chesapeake Energy Corp., et al.	Royalty case with settlement stayed pending AG's action.	Class	Multiple leases